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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/071,653	02/07/2002	Alex A. Lopez-Estrada	PW 249767 P13656	1682

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EXAMINER
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AZAD, ABUL K

ART UNIT	PAPER NUMBER
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2654

DATE MAILED: 01/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/071,653

**Applicant(s)**

LOPEZ-ESTRADA, ALEX A.

**Examiner**

ABUL K. AZAD

**Art Unit**

2654

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 07 February 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 February 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f):
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>02/07/02</u> . | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. Claims 1-30 are pending in this Office Action.

#### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1, 3-7, 11-13, 15-17, 21-23 and 25-27 are rejected under 35

U.S.C. 102(e) as being anticipated by Miet (US 6,499,008).

As per claim 1, Miet teaches, “an audio coding system”, comprising:

“a template generation component to generate templates for use in an audio coding operation, said template generation component including a templates database populated by at least one distortion threshold template” (col. 3, lines 45-62); and

“an audio coding component that performs an audio coding operation, said audio coding operation utilizing said at least one distortion threshold template” (col. 3, lines 45-62).

As per claim 3, Miet teaches, “said template generation component further including: a classification scheme to classify said at least one distortion threshold template into at least one class” (col. 3, lines 45-62).

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As per claim 4, Miet teaches, "wherein said audio coding operation includes an algorithm that utilizes said at least one distortion threshold template, and said audio coding component further includes an audio encoder that implements said algorithm to convert an uncompressed audio signal into a compressed audio signal" (col. 3, lines 45-62).

As per claim 5, Miet teaches, "said audio coding operation including a selection control to select said at least one distortion threshold template" (col. 3, lines 45-62).

As per claim 6, Miet teaches, "wherein said audio coding operation is a trans coding operation that alters a compression attribute of an audio stream to generate a trans coded audio stream" (col. 3, lines 6-18).

As per claim 7, Miet teaches, "wherein said compression attribute is a bit rate" (col. 3, lines 6-18).

As per claims 11-13, 15-17, 21-23 and 25-27, they are interpreted and thus rejected for the same reasons set forth in the rejection of claims 1, 3-7.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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5. Claims 2, 8-10, 14, 18-20, 24 and 28-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miet (US 6,499,008) as applied to claims 1, 6, 12, 16, 22 and 26 above, and further in view of Well-known prior art.

As per claim 2, 14 and 24, Miet teaches, "an audio excerpts database populated by at least one audio excerpt" (col. 3, lines 45-62).

As per claim 2, 14 and 24, Miet does not explicitly teaches, "a psycho-acoustic model that creates said at least one distortion threshold template". Official Notice is taken on the well-known "a psycho-acoustic model that creates said at least one distortion threshold template". Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to use a psycho-acoustic model to create distortion threshold template because one ordinary skill in the art would readily recognize that would provide perceptual sound coding to produce a perceptible sound output.

As per claims 8-10, 18-20 and 28-30 Miet does not explicitly teach, "said transcoding operation further including an inverse quantization operation and a bit allocation and quantization operation that utilizes said at least one distortion threshold template and said bit allocation and quantization operation utilizing a common intermediate audio representation (CIAR), wherein said CIAR is a set of modified discrete cosine transform (MDCT) coefficients". Official Notice is taken on the well-known "said transcoding operation further including an inverse quantization operation and a bit allocation and quantization operation that utilizes said at least one distortion threshold template and said bit allocation and quantization operation utilizing a common

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intermediate audio representation (CIAR), wherein said CIAR is a set of modified discrete cosine transform (MDCT) coefficients". Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to use well-known technique of encoding uses in MPEG-1 because one of ordinary skill in the art would readily recognize that would provide a perceptual quality of coding.

***Contact Information***

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Abul K. Azad** whose telephone number is **(703) 305-3838**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Richemond Dorvil**, can be reached at **(703) 305-9645**.

Any response to this action should be mailed to:

**Commissioner for Patents**

**P.O. Box 1450**

**Alexandria, VA 22313-1450**

Or faxed to:

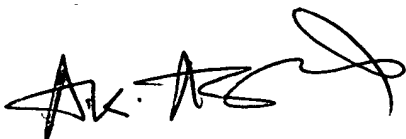
**(703) 872-9314**

(For informal or draft communications, please label "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to 2121 Crystal Drive, Arlington, VA, Sixth Floor (Receptionist).

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Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center's Customer Service Office at telephone number (703) 306-0377.

A handwritten signature in black ink, appearing to read 'A.K. Azad', with a large, stylized flourish extending from the end.

Abul K. Azad

January 10, 2005